REMARKS

Applicants submit this preliminary amendment with a request for continued examination (RCE) and request reconsideration of this application. Claims 1-27 stand rejected. Claims 1, 11, and 18 have been amended. In view of the amendments to claims and the remarks urged here, Applicants respectfully request the Examiner to reconsider all outstanding rejections and to withdraw them.

In paragraph 2 of the office action, the Examiner rejected claims 1-2, 10-13, 16-19, and 27 under 35 U.S.C. Section 102(e) as anticipated by Vong et al. (U.S. Patent No. 6,209,011). In paragraph 3 of the office action, the Examiner rejected claims 3-9, 14-15, and 20-26 under 35 U.S.C. Section 103(a) as unpatentable over Vong et al. (U.S. Patent No. 6,209,011), as applied to the claims above, and further in view of Chari et al. (U.S. Patent No. 6,553,416). Applicants respectfully submit that the claims as amended are distinct from the patent to Vong. Accordingly, the Examiner is requested to withdraw the rejection under 35 U.S.C. Section 102(e). With respect to the Examiner's rejection under 35 U.S.C. Section 103, Applicants respectfully submit that a combination of the two references as suggested by the Examiner is improper and would not have obvious to one of ordinary skill in the art, as neither reference explicitly recites the motivation to combine the references as suggested by the Examiner. To that end, Applicants bring the following cases to the Examiner's attention.

In re Raynes, 7 F.3d 1037, 1039 (Fed. Cir. 1993):

When determining whether a new combination of known elements would have been obvious in terms of 35 U.S.C. § 103, the analytic focus is upon the state of knowledge at the time the invention was made. The Commissioner bears the burden of showing that such knowledge provided some teaching, suggestion, or motivation to make the particular combination that was made by the applicant. *In re Oetiker,* 977 F.2d 1443, 1445-47, 24 U.S.P.Q.2D (BNA) 1443, 1444-46 (Fed. Cir. 1992); *In re Piasecki,* 745 F.2d 1468, 1471-72, 223 U.S.P.Q. (BNA) 785, 788 (Fed. Cir. 1984). This determination is made from the viewpoint of the hypothetical person of ordinary skill in the field of the invention. 35 U.S.C. § 103; *In re Gorman,* 933 F.2d 982, 986, 18 U.S.P.Q.2D (BNA) 1885, 1888 (Fed. Cir. 1991).

In re Deminski, 796 F.2d 436, 442 (Fed. Cir. 1986):

"There was no suggestion in the prior art to provide Deminski with the motivation to design the valve assembly so that it would be removable as a unit. The board argues that if Pocock had followed the "common practice" of attaching the valve stem to the valve structure, then the valve assembly would be removable as a unit. The only way the board could have arrived at its conclusion was through hindsight analysis by reading into the art Deminski's own teachings. Hindsight analysis is clearly improper, since the statutory test is whether "the subject matter as a whole would have been obvious at the time the invention was made." 35 U.S.C. § 103 (1982); *In re Sponnoble*, 56 C.C.P.A. 823, 405 F.2d 578, 585, 160 U.S.P.Q. (BNA) 237, 243 (CCPA 1969)."

Conclusion

All of the stated grounds of rejection have been properly traversed. Applicant therefore respectfully requests the Examiner to reconsider all presently outstanding rejections and to withdraw them. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,

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